

PACKAGING PRODUCTS CORPORATION AND LORENZO INOCANDO, PETITIONERS, VS. THE NATIONAL LABOR RELATIONS COMMISSION AND BRICCIO ELERIA, RESPONDENTS.

G.R. No. 50383. July 23, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for review on certiorari of the resolution issued by the respondent National Labor Relations Commission (NLRC) dismissing the petitioners' appeal and affirming the decision of the labor arbiter which ordered the petitioners to pay Briccio Eleria's unpaid commissions in the amount of Two Hundred Seventy-Two Thousand, Eight Hundred Thirty Pesos and Eighty Centavos (P272,830.80) plus legal interests at six per cent (6%) per annum until fully paid.

The background facts are summarized by the Labor Arbiter as follows:

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"Complainant Briccio Eleria claims as follows: That he was employed by respondent corporation since 1959 until February, 1978, when he was forced to resign for reasons that gave rise to the instant case. In the course of his employment, he held various responsible positions among which are as a one-man office force (when respondent corporation was yet in its infancy and 2nd Vice-President for Sales. In 1969, the corporation's General Manager persuaded him to join a group assigned to sell the company's corrugated cartons to consumer corporations in connection with the management's sales incentive program. He was also designated as a Group Account Executive in-charge of a group of account representatives and paid a monthly salary of TWO THOUSAND (P2,000.00) PESOS plus allowances and commissions for generated sales ranging from one half per cent (1/2%) to one fourth per cent (1/4%).

"It was while holding the position of Group Account Executive that in late 1969 or early 1970, the corporation's board chairman assigned him to handle and develop the account of La Tondeña Inc., considered to be the biggest user of corrugated cartons as it requires seven million (P7,000.000) corrugated shipping boxes a year. On account of the volume, competitiveness, prestige and profitability of the assignment, he demanded for an incentive, a demand that was granted as he was assured and given a commission equivalent to seven percent (7%) which was different and distinct from the regular one half percent (1/2%) commission of the aggregate value of the actual monthly sales of La Tondeña, Inc. Further, a special arrangement was made for the payment of this commission, wherein the checks were made payable to him after invoice (even before payment) during the first week of every succeeding month with the fictitious names BENJAMIN ELIAS and/or PEDRO REYES CRUZ appearing in the checks as payees. The use of these fictitious names was allegedly for the purpose of covering-up the rather anomalous situation where a mere salesman of the corporation could appear to be earning more than its officers or executives.

"He serviced the account for La Tondeña alone and unassisted from the time it was given to him until March, 1977 when it was suddenly taken away from him. The reason allegedly advanced by management for its action was quite flimsy, that if something untoward should happen to complainant, nobody in the corporation can

continue the business with La Tondeña, Inc. During the period that he handled La Tondeña's account, he was able to secure purchase orders for Rustan in the aggregate amount of Twenty-Six Million (P26,000,000) Pesos, more or less.

"Insofar as the removal from him by the management of the account of La Tondeña, Inc., he alleges that this was thru the cajolery and manipulations of respondent Inocando. He contends that he certainly would not have agreed to receive the amount of P5,000.00 every month as consolation for the loss of La Tondeña, Inc., account as it is an amount that pales very much in comparison to the total income he was receiving as commissions for the La Tondeña account. He therefore, charges that management is guilty of diminution of benefits and claims that management should pay him the commissions due him from the La Tondeña, Inc., account for the months of November, 1976 through (sic) March, 1977. He avers that management does not have a good ground to take away from him the La Tondeña, Inc., account as there have been no complaints coming from the La Tondeña people on the way he was servicing the account.

"Complainant claims further that he would not have resigned his employment were it not for the acts of demotion, humiliation, caused the deterioration of his health so that he was eventually constrained to resign his employment in February, 1978.

"Respondents on the other hand, deny almost all of complainant's allegations. Respondent Inocando specifically denies complainant's claim that he was assured and given a seven and one-half percent (7 ½%) commission rate for the sales made to La Tondeña, Inc., alleging that complainant was entitled only to the regular commission of one half percent (½%). The 7% commission, respondent Inocando maintains, that it actually constituted the commission rebates given by respondent corporation to certain employees of La Tondeña, Inc., the 4% of which was the rebate payable to a certain Pedro Reyes Cruz while the 3% pertained to a certain Benjamin Elias, admitting the complainant's claim that the names Pedro Reyes Cruz and Benjamin Elias are fictitious but maintains that these names were used merely to facilitate the issuance of vouchers and the checks in the amounts corresponding to seven percent (7%) commission rebates. He avers that complainant endorses the checks issued in the name of those fictitious persons and that subsequent to complainant's endorsement, the checks are cashed with the company's bank and the proceeds are given to the complainant for him to deliver the money to some La Tondeña, Inc., employees entitled to commission rebates.

"He further claims that although the usual practice is for him to accompany the sales representatives deliver the commission rebates, the La Tondeña case was the exception as it was only the complainant who effected the rebates payment and this is so, as the complainant allegedly claimed that the La Tondeña employees are embarrassed if a high ranking official of respondent corporation other than complainant himself gives out the rebates.

"Respondent Inocando maintains that the main reason why management took away from the complainant the La Tondeña, Inc., account was that they learned that complainant did not actually pass on the commission rebates to the La Tondeña employees and that they became more suspicious because of complainant's high style of living and expensive activities which suspicion was allegedly heightened when complainant refused respondent Inocando's offer that he (Inocando) accompany him in making the rebate payments.

"Respondent Inocando denies complainant's charges of harassment, discrimination and humiliation, alleging that complainant actually did not object to receive the monthly income of P.5,000.00 to compensate for the loss of the La Tondeña account. He avers that the new accounts assigned to be developed by complainant were actually big and possessed of tremendous potentials for expansion." (pp. 15-19, Rollo).

After trial on the merits, the Labor Arbiter found for the complainant Briccio Eleria. He ordered the payment of unpaid commissions earned by Eleria from his job with the respondent Packaging Products Corporation (formerly Rustan Manufacturing Corporation), as follows:

"For the benefits that were diminished, complainant is therefore entitled to receive the commissions due him

from the sales generated from La Tondeña, Inc. The purchase orders solicited by him for the months of November, 1976 to March, 1977 reached FOUR MILLION FIVE HUNDRED EIGHT THOUSAND EIGHT HUNDRED EIGHTY-SEVEN AND 25/100 (P4,508,887.25) PESOS. Seven and one half percent of this is P338,166.54, and complainant admitted having received SIXTY-FIVE THOUSAND THREE HUNDRED THIRTY-FIVE and 69/100 (P65,335.69). What is unpaid therefore is the amount of P272,830.85.

"WHEREFORE, respondents are hereby ordered to pay complainant his unpaid commissions in the amount of TWO HUNDRED SEVENTY-TWO THOUSAND EIGHT HUNDRED THIRTY PESOS AND 85/100 (P272,830.85) plus the legal interest of six percent (6%) until fully paid." (p. 8, Rollo).

On appeal by the then respondents, now the petitioners herein, the National Labor Relations Commission affirmed the labor arbiter's decision. Hence, this petition.

The issue is whether or not the private respondent is entitled to unpaid commissions equivalent to 7% of total sales he effected, aside from his regular 1/2% commission, based on the aggregate value of the actual monthly sales to La Tondeña, Inc.

The petitioners insist that the National Labor Relations Commission committed a grave abuse of discretion when it ordered the payment of the sum of P.272,830.85 to respondent Briccio Eleria representing alleged unpaid commissions inspite of a clear showing that Eleria was not entitled thereto. They restate their position that the sums equivalent to 7% of the total value of the sales made to La Tondeña, Inc., were commission rebates payable to certain employees of La Tondeña for their "cooperation" and "assistance." With these rebates, the flow of orders from and the prompt payment of sales by La Tondeña, Inc. were assured. Of the 7% commissions, 4% were the commission rebates payable to a certain Pedro Reyes Cruz while 3% were the commission rebates payable to a certain Benjamin Elias. However, the petitioners admit that the names Pedro Reyes Cruz and Benjamin Elias were fictitious persons and that the names were used merely to facilitate the issuance of vouchers and checks in the amounts corresponding to the 7% commission rebates. Petitioner Inocando testified as to the procedure in the issuance of the checks. He stated that after these checks are prepared they are given to the private respondent for endorsement at the back. The checks are then cashed with the company's bank and the proceeds given to the private respondent for delivery to the employees of La Tondeña who assisted in the consummation of the sale of the petitioners' products.

On the other hand, the private respondent maintains that the 7% commissions constituted his special commissions from the company as an incentive or a form of reward to him for handling the La Tondeña, Inc., account to allow him to cope with the strong competition from other packaging companies and to enable the maintenance of the account. As regards the scheme of using fictitious names on the checks, he states that:

"The use of the fictitious names of BENJAMIN ELIAS and PEDRO REYES CRUZ, contrary to the allegations of the herein Petitioners, are cover ups on what may be an anomalous situation if the checks were paid directly to Respondent BRICCIO ELERIA. If such were the case, it would appear in the record that a mere sales man was earning more than an officer of the company considering the amount of the commission. Thus, inspite of the insistence of MR. ELERIA to make the check payable to him to avoid any dispute. Management issued the checks under the fictitious names of BENJAMIN ELIAS and PEDRO REYES CRUZ x x x." (p. 41, Rollo).

This issue as to who is entitled to the commission of 7% of the total value of sales to La Tondeña, Inc., is a question of fact, passed upon by the Labor Arbiter and the National Labor Relations Commission.

As a rule, the findings of facts of quasi-judicial agencies which have acquired expertise because their jurisdiction is confined to specific matters are accorded not only respect but at times even finality if such findings are

supported by substantial evidence (*Special Events and Central Shipping Office Workers Union v. San Miguel Corporation*, 122 SCRA 557; *Phil. Labor Alliance Council v. Bureau of Labor Relations*, 75 SCRA 162; *Dangan v. National Labor Relations Commission*, 127 SCRA 706).

There are, however, exceptions to the above rule. As stated in *Ateneo de Manila University v. Court of Appeals* (145 SCRA 100, 106):

x x x x x x x x

"However, there are exceptions to this rule and judicial power asserts itself whenever the factual findings are not supported by evidence; where the findings are vitiated by fraud, imposition, or collusion; where the procedure which led to the factual findings is irregular; when palpable errors are committed; or when a grave abuse of discretion, arbitrariness, or capriciousness is manifest. (*International Hardwood and Veneer Co., of the Philippines v. Leogardo*, 117 SCRA 967; *Baguio Country Club Corporation v. National Labor Relations Commission*, 118 SCRA 557; *Sichangco v. Commissioner of Immigration*, 94 SCRA 61; and *Eusebio v. Sociedad Agricola de Balarin*, 16 SCRA 569)."

This case is clearly and patently one such exception. The findings are palpably erroneous.

The factual findings of the public respondent defy logic and experience. Administrative agencies are given substantial leeway in ascertaining the truth about a contested situation. Fact finding, however, must be a rational inquiry leading to credible conclusions. The National Labor Relations Commission should accept only such statements or proofs which are trustworthy and which support conclusions that only fairminded and responsible persons are willing to infer and pronounce. In this case, the National Labor Relations Commission gave full faith and credit to an obviously unbelievable explanation.

The petitioner's salesmen receive regular salaries. To encourage increased sales, they also get commissions ranging from 1/4% to 1/2% of generated sales. The private respondent received the maximum 1/2% of commission given to the firm's top salesmen.

In addition, Eleria insists on a whopping 7% of generated sales because he handles the account of their biggest buyer of corrugated cartons, La Tondeña, Inc. There is absolutely no reason found in the records why Mr. Eleria should get a commission fourteen (14) times bigger than the next best salesman of the firm. He would have been earning more than the corporation's top executives. He could not have been 14 times more dynamic, persevering, and persuasive than the other salesmen.

The evidence showing that the 7% "commission rebates" are actually kickbacks to La Tondeña officers is the only logical explanation. In the short period that the private respondent handled the account, La Tondeña purchased more than P26,000,000.00 worth of corrugated cartons. To keep those orders flowing in, the petitioner, by its own admission, was willing to kickback 7% of the payments received to whoever were responsible for choosing the regular suppliers of La Tondeña. Mr. Eleria was charged with the job of keeping the undisclosed La Tondeña purchasing agents happy.

The records show that the private respondent was given the full discretion of determining to whom and in what amounts the kickbacks would be given. The amount constituting seven percent of sales was disbursed to two fictitious persons. The checks in the names of Pedro Reyes Cruz and Benjamin Elias were endorsed by Mr. Eleria, cashed with the petitioner's bank, and the money given to Mr. Eleria for distribution to certain La Tondeña officials. How Mr. Eleria spent the money to promote or maintain sales was apparently left to him entirely. He had the contacts. The petitioner was happy with the arrangement and kept on paying the "rebates" as long as the orders kept coming in.

In a way, the arguments of the private respondent have a little basis because the petitioner had no way of

knowing, except from reduced sales, whether or not the full seven percent was reaching the intended beneficiaries. The money was, therefore, Mr. Eleria's to fully give away or not. What he did not give away, he was allowed to keep.

This Court cannot give positive relief to either petitioner or respondent because we are asked to interpret and enforce an illegal and immoral arrangement. (See Articles 1409, 1411, and 1412 of the Civil Code). Kickback arrangements in the purchase of raw materials, equipment, supplies and other needs of offices, manufacturers, and industrialists are so widespread and pervasive that nobody seems to know how to eliminate them. However, their not being uncommon does not make these arrangements legitimate subjects that courts may enforce or sanction. In government, they would be proper for anti-graft and corrupt practices' indictments. In private life, the affected firms will have to devise their own remedial measures. The pernicious effects are evident. The 7% "commission rebates" in this case are extra charges which La Tondeña top management has to bear and which it will eventually pass on to the buyers of its products. The Bureau of Internal Revenue is cheated of sizeable amounts of taxes. The corrupting influence affects the employees of the buyer corporation and the officials and employees of the supplier firms who are involved in the arrangements. And as always, it is the consuming public which ultimately suffers.

Both the petitioners and the private respondent are in *pari delicto*. Neither one may expect positive relief from courts of justice in the interpretation of their contract. The courts will leave them as they were at the time the case was filed.

WHEREFORE, it appearing that the subject matter of the agreement sought to be enforced is illegal and immoral, the resolution of the National Labor Relations Commission and the order of the Labor Arbiter which are questioned by the petitioner are declared NULL and VOID. The petition is DISMISSED. The Bureau of Internal Revenue is furnished a copy of this decision for its information and appropriate action.

SO ORDERED.

Fernan (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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